

Chapter 4: CERTIFICATION, RECERTIFICATION, REVOCATION OF CERTIFICATION  
FOR MUNICIPAL SHELLFISH CONSERVATION WARDEN

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4.10 Certification

- A. A municipality shall request certification for its shellfish conservation warden(s) by applying in writing to the Department of Marine Resources.
- B. Upon receipt of an application for certification, the Department of Marine Resources will either accept or deny, or accept with conditions, the request for certification. Written notice of the department's decision will be forwarded to the municipality within 30 days of the receipt of the application. Reasons for any denial will be stated in writing and shall be based upon the considerations set forth in Chapter 4.40(A) (1 through 8). If the Department's acceptance is conditional, the municipality and its warden(s) shall comply with the conditions set forth in the acceptance, which shall include, but not be limited to, the requirements of Chapter 4.10(D) below. Municipal wardens may not enforce shellfish ordinances until the Department of Marine Resources has approved their application and has granted certification.
- C. Wardens who will carry a firearm or who will have the power of arrest must provide proof of certification from the Maine Criminal Justice Academy in order to achieve Departmental certification.
- D. Any warden appointed by the town must attend and complete the next available Department of Marine Resources Conservation Course. Wardens are required to successfully complete the Department of Marine Resources Conservation Course, including a written examination, in order to achieve Departmental certification. Wardens who are taking the course for recertification will not be required to take the written examination.
- E. Certification will be valid for one year and may be renewed annually by application of the municipality, provided that the warden involved attends a review session offered by the Department of Marine Resources at least every 3 years and the warden is otherwise in good standing under Chapter 4.20 and 4.30. Failure to complete a review session shall result in loss of certification unless the warden has received a waiver from the Department allowing the warden to extend his (her) certification period.

- F. A written job description describing the duties and responsibilities of the warden shall be provided to the Department by the municipality as part of the requirement for certification.

#### 4.20 Minimum Qualifications

In addition to the above, a person appointed by a municipality as a shellfish warden must meet the following minimum qualifications for certification:

- A. The warden must have a high school diploma or the equivalent. This requirement will be waived for municipal wardens who were certified prior to the effective date of this rule.
- B. The warden must have a valid motor vehicle operator's license. If the applicant has an out of state license, a Maine license must be obtained as prescribed under Maine law.
- C. The warden must be 21 years of age or older.
- D. The warden must not have been convicted of a violation of any marine resource law or regulation enacted or adopted under Title 12 of the Maine Revised Statutes Annotated, within the last six years. A person may make application for consideration to the Commissioner of the Department of Marine Resources or designee for a waiver of this provision.
- E. The warden must have no convictions for Murder, Class A, Class B, Class C, Class D or Class E crime, unless the act committed was a Class D or E crime and a violation of Title 12 Maine Revised Statute Annotated and was committed prior to the last six years. A person may make application for consideration to the Commissioner of the Department of Marine Resources or their designee for a wavier of this provision.
- F. The warden must not falsify or misrepresent any information during the application process or background investigation.
- G. The warden must be able to read and write at a level necessary to successfully complete the Department of Marine Resources Municipal Warden Conservation Course.

#### 4.30 Recertification

- A. Should certification not be renewed or maintained, or should it be allowed to lapse for any reason, the municipality must apply in writing to the Department of Marine Resources for recertification of its conservation warden.
- B. The warden must complete a Departmental review training session before recertification can be given under this section.

#### 4.40 Revocation, Suspension or Refusal to Renew Certification

- A. The Commissioner of the Department of Marine Resources may refuse to renew or may deny a certification of a warden if one or more of the following has occurred:
  - (1) the warden has failed to meet the performance standards as set forth in Chapter 4.50;
  - (2) the provisions and requirements imposed pursuant to 25 M.R.S.A. §2806 have not been satisfied;
  - (3) the municipality employing the warden requests that he (she) no longer be certified. Notice must be given to the Department within 30 days of the revocation.
  - (4) the warden or the municipality has violated any Marine Resources laws or regulations enacted or adopted under 12 M.R.S.A.;
  - (5) the municipality has not adopted and administered a municipal shellfish conservation ordinance in accordance with 12 M.R.S.A. §6671;
  - (6) the conditions imposed under any conditional certification have not been, or will not be, satisfied;
  - (7) the warden fails to successfully complete the required certification training; or
  - (8) the warden does not meet, or no longer meets, the minimum qualifications set forth in Chapter 4.20 above.
- B. At any time, the Commissioner of the Department of Marine Resources may petition the District Court, or take any other lawful action, to revoke or suspend, and the District Court shall revoke or suspend, a warden's certification where any of the events described in Chapter 4.40(A) (1 through 8) have occurred.

#### 4.50 Performance Standards

All municipal conservation wardens shall:

- A. Enforce the municipality's shellfish conservation ordinance(s) in accordance with the law;
- B. Enforce the two-inch clam law (12 M.R.S.A. §6681) within the wardens' jurisdiction;
- C. Adhere to principles of effective law enforcement to include but not limited to:
  - (1) proper use of force;
  - (2) adherence to rules of evidence and legal procedure; and
  - (3) proper use of arrest and summoning powers.
- D. Submit a written biannual report to the municipality and to the Department with the first report being due by March 1 and the second due by September 15. The report shall include:
  - (1) the approximate amount of shellfish inspected in the last six months;
  - (2) the approximate number of harvester's checked in the last six months; and
  - (3) the violations encountered and actions taken. A certified copy of each conviction and action filed with the court, on forms provided by the Department of Marine Resources, must be forwarded to the Department.
- E. Be of sound mind and good moral character, and otherwise competent to perform conservation law enforcement functions.

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STATUTORY AUTHORITY:  
12 M.R.S.A. §6671(8)

EFFECTIVE DATE:  
March 19, 2001 - language transferred and amended from Chapter 3